

Appln. No. 10/549,363
Amdt. dated July 15, 2008
Reply to Office Action of April 16, 2008

Amendments to the Drawings

The attached drawing sheet 1/3 includes changes to Fig. 1. This sheet replaces the original sheet including Fig. 1. In Fig. 1, elements 8 and 9 have been identified. The header objected to by the Examiner on drawing sheet 1/3 has been removed.

The header on drawing sheet 2/3 has been removed. No changes have been made to Fig. 2.

Drawing sheet 3/3 with two separate portions labeled Fig. 3 has been re-labeled as Fig. 3A and Fig. 3B. The header on drawing sheet 3/3 has been removed.

Attachment: Replacement Sheet
Annotated Drawing Sheet Showing Changes

REMARKS

The Official Action of April 16, 2008, and the prior art cited and relied upon therein have been carefully studied. The claims in the application are now claims 1, 3, 5-11, 15-17, 19 and 20, and these claims define patentable subject matter warranting their allowance. Favorable reconsideration and such allowance are respectfully urged.

Claims 2 and 12 have been cancelled and new claims 19 and 20 added. Claims 4, 13, 14 and 18 have been withdrawn from consideration. Claims 1, 3, 5-11, 15-17, 19 and 20 remain in the application for consideration.

Applicant confirms its election of the species shown in Figs. 2 and 3.

In response to the Examiner's objection to the drawings, specification and claims and rejection of claim 8 under 35 U.S.C. §112, second paragraph, Applicant has:

- (1) Amended the portions of Fig. 3 separately as Figs. 3A and 3B with corresponding changes in the description of the drawings and has further deleted the information on the drawings identified by the Examiner;
- (2) Amended page 8, line 8 to correctly identify EP 0302707;
- (3) Amended claims 3 and 12 to correct the misspellings in claims 3 and 12. Applicant does not agree that "a single" in claims 7 and 16 should be "the single". Claims 7 and 16 both depend from claims providing for "at least one rigid or taut connection" which

is not intended to be the antecedent for —a single rigid or taut connection— which term was not previously claimed, and

- (4) Amended claim 8 to depend from claim 3 which provides for the structural relationship being the structural element of claim 8.

Applicant respectfully submits that the Examiner's objection to the drawings, specification and claims and rejection of claim 8 under 35 U.S.C. §112 have now been overcome.

The Examiner has further rejected claims 1-2 and 9-10 under 35 U.S.C. §102(b) as being anticipated by Shotton '707, claims 3 and 5-8 under 35 U.S.C. §103(a) as being unpatentable over Shotton in view of Smetanin '957, and claims 11-12 and 15-17 under 35 U.S.C. §103(a) as being unpatentable over Shotton in view of Smetanin. Applicant respectfully traverses all of these rejections as applied to independent claims 1, 3 and 11 as amended and the claims depending therefrom.

As the Examiner will note, claim 1 as amended now provides for means to measure the difference in alignment between the first plan position of the element and the second plan position of the element extending between the upper and lower positioning means. The only reference in Shotton to a means to measure the difference in alignment is in Col. 4, lines 57-59 which indicates that confirmation of the inclination may be by means of either surveying techniques or by means of spirit level. There is no disclosure that the means extends and is fixed between the upper and lower positioning means as now claimed.

Claim 3 as amended now provides for means to measure the difference in alignment between the first plan position of the element and the second plan position of the element and includes at least one rigid or taut connection. As previously mentioned, the only reference in Shotton to a means to measure the difference in alignment is in Col. 4, lines 57-59 which recited that confirmation of the inclination may be by means of either surveying techniques or by means of spirit level. There is, therefore, no disclosure that the measuring means includes the at least one rigid or taut connection set out in claim 3. The Examiner considers the frame 6 in Fig. 4 of Shotton to be a rigid or taut connection. However, the frame 6 is described in the specification of Shotton as a locating frame. There is no mention of the locating frame serving to measure the difference in alignment. Applicant submits that the features of claim 3 are not shown or taught in the combination of Shotton and Smetanin.

As the Examiner will further note, claim 11 as amended now provides that the first and second points between which the rigid or taut connection extends, are at an identical displacement from the element which is being positioned. In comparison, as noted above, Fig. 4 of Shotton shows that the frame 6 is fixed in the borehole and the element is movable within the frame by the adjustment means. Therefore, even if the frame 6 is determined to be a rigid or taut connection for measuring the difference in alignment, the cited prior art does not teach that the vertically extending members of the frame are at an identical displacement from the element.

Applicant respectfully submits that the claimed invention patentably defines over the cited prior art on the basis of the clear structural differences identified above.

Finally, in response to the Examiner's double patenting rejection of claims 1-2 and 9-11 over claims 1-4 and 9 of copending application 10/549,362, Applicant has enclosed herewith a terminal disclaimer of the period of time of the patent grant for the claimed invention beyond the termination date of the patent grant of application No. 10/549,362. Applicant respectfully submits that the Examiner's double patenting rejection has now been overcome.

The prior art documents made of record and not relied upon have been noted along with the implication that such documents are deemed by the PTO to be insufficiently pertinent to warrant their applications against any of applicant's claims.

Favorable reconsideration and allowance are earnestly solicited.

Respectfully submitted,

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